WATERFRONT

From: David Douglas, Permit Coordinator
To: All SMP Update Interested Parties

Ref: RGP-3 DIMENSIONAL STANDARDS AND TYPICAL CONTRUCTION STANDARDS COMPARISON TABLE

Dear SMP Interested Parties,

The SMP Update process requires local governments and property owners to achieve "no net loss" with WA Department of Ecology's (DOE) strong endorsement of the Army Corps Regional General Permit-3 (RGP-3) dimensional standards for overwater structures. This is combined with overly restrictive standards being placed on the installation of new and repair or replacement of existing bulkheads in an all out assault on private property owners. It removes all incentive for voluntary improvements and is a step back from the progress achieved over the last several years through state and federal regulations and responsible stewardship by waterfront property owners.

At the request of several local planners and as a part of Waterfront Construction's (WCI) commitment in assisting local governments and their citizens in adopting the most effective and reasonable Shoreline Master Program (SMP), the table on the following pages was developed. It compares the dimensional standards in the RGP-3 with the most common dimensional standards and construction methods used by WCI on residential overwater structures to meet structural and load requirements while addressing environmental concerns.

To date, there have been hundreds of projects reviewed and approved by the Corps of Engineers (COE) using the RGP-3 Application although none of the projects submitted by WCI and very few region-wide have met all RGP-3 standards. The COE Regulatory Section, who reviews projects under the RGP-3, recognizes the factors that influence pier design based on individual needs for each applicant combined with unique conditions at each location. This allows the Corps to apply flexibility during the course of their review. Although there is no mitigation offset chart for the removal of existing structures (like RGP-6 for Marine Waters), the COE gives this measurable consideration. Adopting the RGP-3 Dimensional Standards into a more rigid and inflexible SMP will be problematic and trigger Shoreline Variances whereby placing approval into the hands of WA Department of Ecology (DOE) and removing a degree of shoreline control from local governments. The Corps has recognized that the RGP-3 is a work in progress and several changes are needed. Local governments using the RGP-3 for their SMP (just like DOE adopting it for "no net loss") will be basing their SMP's on dimensional standards that may change in the near future. It should be noted that the issued permits are not RGPs' but Letters of Permission that must be reviewed by the federal services under ESA requirements.

Alternative standards similar to the RGP-3 may work if there is flexibility in crediting the removal of existing structures to allow applicants to replace wider walkways and platform sections with similar sized structures in deeper water, consideration for water depth, an allowance for additional overwater coverage to moor larger watercraft, or through the development of a mitigation offset chart that would fairly credit applicants for removing existing structures. An alternative process containing proportionate mitigation and recognizing improvements over existing conditions would be highly effective.

Additionally, if the RGP-3 standards reflect "no net loss" for an undeveloped property proposing a new pier, then it should be easy for a property owner replacing an existing pier to document a "net gain" using a worksheet developed by local planning departments. This holds true for piers as well as bulkheads. Local governments with support from DOE must develop incentives for property owners to replace older more impacting piers with newer designs even when they do not align with the RGP-3 or other dimensional standards. Local governments can "bank" improvements to offset future development.

Scenario for a Typical Lake Washington Project:
Existing Structure: 1,000s/f solid deck pier with an 8' wide walkway, 5' wide finger, 12' x 30' platform in the nearshore area and 30- 12" diameter treated timber piles and the bottom 6" above the OHWL with no plantings
Replacement Structure: 750s/f fully grated pier with a 6' wide walkway, 3' wide finger, 8' x 26' "ELL" well away from the nearshore area and 18- 8" diameter steel piles and the bottom 18" above the OHWL with riparian planting plan.

Net Gain/Improvement From a Single Project:
Reduction in Total Overwater Coverage= 250s/f
Reduction in Effective Overwater Coverage from Open Area in Grating (A Reasonable % Reduction Could Be Given)
Reduction in Pile Number = 12
Reduction in Walkway, Finger and "ELL" width and size
Reduction in Pile Mass/Obstruction (Diameter In and Above Water) (30 x 12"= 360" vs 18 x 8"= 144")= 216"
Increased Elevation of Pier Bottom Above OHWL= 12" (Additional sunlight and ambient light reaches beneath the entire perimeter of the pier)
Native Riparian Planting Plan

I can't speak for the Corps but based on experience I feel this would be approved as proposed or very minor changes.

Seattle Office
Waterfront Construction, Inc.
205 NE Northlake Way, Suite 230, Seattle, WA 98105
P: (206) 548-9800 F: (206) 548-1022

Everett Office
Waterfront Construction, Inc.
10315 19th Avenue SE, Suite 106, Everett, WA 98208
P: (425) 357-0312 F: (425) 357-0320

Could DOE (or any local government who adopts the RGP-3 or other overly restrictive dimensional standards) genuinely pronounce that the above project does not meet the "no net loss" goal and fail to recognize that it is a vast improvement over existing conditions or a "net gain"? The above scenario best reflects what takes place on highly developed urban lakes and the direction SMP's should take; measurable gains with each project where "banking" credit for future new development can occur.

An important point to remember is the RGP-3 dimensional standards were developed by the COE, U. S. Fish and Wildlife Service and NOAA- Fisheries Service to arrive at a determination of "May Affect, Not Likely to Adversely Affect" Listed Species and/or Critical Habitat under the Endangered Species Act. **In developing the SMP Update Requirements, DOE chose to promote the RGP-3 standards to local governments on Lake Washington and Lake Sammamish to meet their "No Net Loss of Shoreline Ecological Functions" goal with no apparent direct scientific research or measurable data from Ecology itself to support those dimensional standards.** As a result, it makes sense that local governments be permitted to provide flexible dimensional standards that may exceed those listed in the RGP-3, especially for redevelopment. The DOE publication entitled "What Does No Net Loss Mean in the 2003 SMA Guidelines" was distributed in June 2004 prior to the effective date of the RGP-3 so DOE's original intent may not have been to use the RGP-3 dimensional standards to meet their "No Net Loss" goal.

Local governments should avoid including any structural guidelines in their SMP regarding pile size or span. These are based on construction and load requirements and site specific conditions and should be left to Marine Contractors and the local Building Department. Reviews conducted by WA Department of Fish and Wildlife (WDFW) and the COE address such items from an environmental position and have been effective. All piers are value engineered using the smallest number and diameter piles required to provide the safe moorage. Reference to pile size and spans should not be listed in the SMP Updates.

Please understand that the RGP-3 represents one of several permitting processes used by COE for evaluating and approving overwater structures and it was not intended to be used for SMP purposes. Basing a very restrictive and inflexible SMP on the dimensional standards listed in the RGP-3 is in and of itself, problematic. **It is crucial that local governments comprehend that the key to any successful SMP is in flexibility and balance to expect the routine but plan for the unusual.** Failing to recognize the other permit processes available and the various factors that result in approval by other state and federal agencies will result in a flawed SMP that will discourage participation, encourage unauthorized work and spark challenge and debate.

Local leaders should realize that Lake Washington and Lake Sammamish are distinctive water bodies making some of the RGP-3 dimensional standards more compatible with residential overwater structures built on Lake Sammamish due to the smaller size of watercraft and no direct access to the Puget Sound. Life on Lake Washington reflects the need for larger piers to accommodate larger watercraft. Also, the RGP-3 is entitled, "Construction of ***New or Modification*** **of Existing Residential Overwater Structures** and Installation of Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, including the Lake Washington Ship Canal. **The RGP-3 was not designed for the in-kind replacement of existing residential overwater structures and SMP's should not be used to require replacement of existing structures to meet the dimensional standards in the RGP-3.**

There are unique situations from time to time and the chart is an attempt to address routine projects. An effective SMP should be flexible despite the mandate from DOE for rigid dimensional standards like those listed in the RGP-3. **Variances and Conditional Use Permits should not be routine but the exception since they result in more work, time and expense for everyone, but primarily for applicants.** Keeping the process simple should be a priority to encourage participation and limit staff review time on Variances.

Only those working in the specialized field of shoreline permitting, have the unique opportunity to work with waterfront property owners, local planners and state and federal regulators and see the improvements with each project while DOE for the most part has played a distant and casual observer until the SMP Update appeared. Having witnessed these improvements first hand, I hold the position that existing SMP's used in conjunction with current state and federal regulatory guidelines have vastly improved Lake Washington, Lake Sammamish and the Puget Sound. Unfortunately, it appears the state pursuit to over-regulate has failed to gather appropriate data to recognize these improvements and provide local governments and property owners with more appropriate and realistic guidelines for achieving "no net loss". **As a result, with the signing and approval of a flawed SMP, many local governments will be declaring a vast majority of existing residential overwater and nearshore structures, along with many residences, non-conforming. If allowed to happen, you will have been unsuccessful in adequately protecting and serving citizens living in the areas affected by the SMP.**

In closing, **one of the most significant points to make is that since the "No Net Loss" goal being used for the SMP Update Guidelines was published over 5 years ago, DOE has had opportunity to comment, appeal or request changes on every overwater structure and bulkhead project processed and approved through the local, state and federal permitting processes. During this time we have received comments on less than 5 of the hundreds of projects WCI has designed, permitted and constructed. Is there a valid explanation for this that local governments should question?**

Thank you for taking the time to review the information provided. I understand and accept that the professional and personal opinions I have expressed above may be a point of debate depending on which side of this issue you stand. If you have any questions or comments please contact me via e-mail at daved@waterfrontconstruction.com or by phone at 425-357-0312.

Sincerely

David Douglas
Permit Coordinator
Waterfront Construction, Inc.

RGP-3 DIMENSIONAL STANDARDS AND TYPICAL CONSTRUCTION STANDARDS COMPARISION TABLE

	Corps RGP-3 Dimensional Standard	Typical Construction and Design Standard (Approximate) (Some Exceptions Apply)	Why the RGP-3 Standard Will Not Work If Adopted Into SMP (Unless It Is Flexible)	How Often Is This RGP-3 Standard Met (Approximate) Never Sometimes Half the Time Most Times Always	Recommended SMP Standard/Comments (SMP Should Be Flexible on a Case-By-Case Basis to Meet the Minimum Moorage Needs of the Applicant)
1	Existing in-water and over-water structures (with the exception of bulkheads) within 30 feet of OHW, except for those facilitating access, shall be removed and no additional in-water structures shall be constructed in this nearshore area over the entire length of the property.	RGP-3 Standard with Exceptions When exceptions occur, the RGP-3 has the flexibility to evaluate on a project specific basis.	N/A	Most Times	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
2	Only piers and ramps can be within 30 feet of shore. All floats and ells must be at least 30 feet waterward of OHW.	RGP-3 Standard with Exceptions When exceptions occur, the RGP-3 has the flexibility to evaluate on a project specific basis.	N/A	Most Times	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
3	Skirting: Skirting is not authorized by this RGP and any existing skirting must be removed.	RGP-3 Standard	N/A	Always	As Written in RGP-3
4	New Piers: Surface coverage of pier must not exceed the following: a. Single property owner-480 square feet b. Two property owners-700 square feet c. Three or more property owners-1000 square feet	Average Estimated Size of <u>New</u> Piers: **<u>Lake Washington</u>** Single- 650sqft Two Owners- 850sqft Three or more- 1,050-1,500sqft **<u>Lake Sammamish</u>** Not enough data collected but piers on Lake Sammamish are typically smaller than those on Lake Washington so sizes similar to those above would be effective. **NOTE: Surface coverage for the purposes of the RGP-3 includes the portion of the structure located waterward of Ordinary High Water and does not include pier sections landward of the OHWL or OHWM. Coverage in SMP's should reflect the same.**	Most new piers are larger than standards. The RGP-3 square footage does not consider large boat moorage and longer main walkways to reach adequate water depth. The RGP-3 Applies to New Piers or Modification of Existing Piers and Not to the In-Kind Replacement of Existing Piers.	Sometimes	**Do not include maximum surface coverage as this is adequately regulated by state and federal agencies using professional biologists.** **If local governments are compelled to include dimensional standards in the SMP they should apply to <u>new</u> structures and be reasonable such as:** **Single- 650sqft, Two Owners- 850sqft, Three or more- 1,050sqft (additional area could be allowed for each owner above 3)** **Allowable Dimensions: 5ft wide walkway, 8 foot wide "ELL" and 3 foot wide finger.** Single Owner Example: 5'x80' (400sqft) main walkway, 8' x 20' (160sqft) "ELL", 3' x 26' (78sqft) finger. Total= 638sqft *These dimensional standards allow watercraft, boatlifts, jet ski lifts and aquatic activity to take place well away from the most critical nearshore area. Allowing additional length to reach adequate water depth on a project specific basis would be helpful. **NOTE: This dimensional standard combined with the maximum "ELL" width and length listed in number 9 below are the most influential factors for encouraging (or discouraging) property owners to replace larger and more impacting existing piers with new more environmentally friendly designs.**

5	Except for floats, the bottom of all structures must be at least 1.5 feet above OHW.	RGP-3 Standard	N/A	Most Times	As Written in RGP-3 **NOTE: On Lake Washington, this requirement results in the surface of residential piers being at least 30" (2.5') above the OHWL (21.80') and approximately 54" (4.5') above the lake surface at Low Lake (20.00') for most of the year. There have been many complaints that this is too high and it poses a safety concern for persons and boats. At low lake, smaller boats can slide under a pier and loading and unloading passengers is unsafe, especially for children and the elderly. Local governments may want to let other agencies regulate this to avoid possible legal action if an injury should occur.**
6	Pier/walkway must be fully grated.	RGP-3 Standard	N/A	Always	As Written in RGP-3
7	Pier/walkway must be no wider than 4 feet	RGP-3 Standard	Most applicants request a 5' or 6' wide fully grated walkway as a matter of safety.	Most of the Time	Walkways up to 6' wide have been approved by the Corps. **Local governments should allow 5' wide walkways for new piers and up to 6' wide on a case-by-case basis for applicants whose pier and property may be used for philanthropic reasons and when a pier will be used by persons with disabilities on a regular or intermittent basis.** **NOTE: The adopted standard should only apply to the nearshore section of the main walkway so applicants have the option of a 6' wide or 8' wide section on a straight pier design when "ELLS are not preferred or on narrower properties where "ELLS" cannot be proposed. This may result in less overwater coverage.**
8	Ramps must not exceed 3 feet in width and be fully grated.	3'-9" to 4' Outside Dimension and 3' to 3'-3" Inside Dimension Ramps are routinely proposed and approved at 3'-9" to 4' wide and it is recognized that ramps eliminate the need for piling in the nearshore area.	Ramps are fully grated, have a 3' wide inside dimension walking surface and are 3'-9" to 4' wide outside to outside. The Corps does not specify where the 3' width is measured from but if the outside dimension of a ramp was 3' the walking surface would only be 2'-3" wide which is too narrow for users and will not allow safe access for persons with disabilities and wheelchairs.	Never (If 3'-0" is applied to outside dimension) Most Times (If 3'-0" is applied to inside walking surface dimension)	**Local SMP's should note that 3' width applies to inside dimension of walking surface and not outside dimension of ramp.** If 3' width is directed toward outside dimension walking surface will be too narrow at 2'-3". All projects submitted to the Corps typically list a 3'-9" to 4'-0" ramp width which has always been approved. **NOTE: Ramps allow the first set of inwater piles to be installed 30+ feet from the OHWL or shoreline and should be encouraged.** **NOTE: Local SMP's should allow ramps to be 4' wide and require full grating to promote this positive element.**
9	Ells must not exceed more than 6-foot wide by 20-foot long with a 2-foot wide strip of grating down the center OR 6-foot wide by 26-foot long and fully grated.	6' or 8' wide by 26' long or a length needed to provide adequate and safe moorage. **Note: People would be more willing to replace existing piers with large platforms in the nearshore area if they can have an 8' or 10' wide "ELL". Limiting "ELLS" to 6' wide will discourage people from replacing existing piers.**	A 6' wide "ELL" does not provide adequate area for most applicants, family and guests. The "ELL" section of a pier is where most activity takes place and it is typically in deeper water. Many projects are designed with 8' or 10' wide "ELLS" to provide enough room for aquatic activities. This is especially true and offers a huge incentive in the case of a pier modification.	Half the Time	**Local SMP should allow for an 8' wide or 10' wide "ELL" section because it is typically located in deeper water and will encourage aquatic activities to occur further from the most critical nearshore area.** If applicants can have a wider "ELL" approved they will often choose a shorter "ELL" also, usually 16 to 20' long. Under the RGP-3 total square footage for a 6' x 26' "ELL" is 156sqft. By allowing up to an 8' maximum width "ELL" for new piers with a maximum surface area of 160sqft (8' x 20') it may encourage

					property owners to modify existing piers and relocate "ELLS" to deeper water further from the shoreline. By allowing up to a 10' maximum width "ELL" section for modified piers or replacement piers in a different configuration based on the width of the existing pier to a maximum surface area of 200sqft (10' x 20') it may encourage property owners with large platforms currently located in the nearshore area to relocate wider section of pier further from the shoreline and into deeper waters. By allowing the wider "ELL" section in the SMP it will give property owners the ability to work with state and federal regulatory agencies that evaluate impacts on listed species and critical habitat. In the case of modified and replacement piers the agencies can use the flexibility of the RGP-3 to approve or decrease the wider pier section on a case-by-case basis and evaluate a project on its overall impacts if new and environmental improvements if modified or replaced in a different configuration. **NOTE: This dimensional standard combined with the maximum surface area listed in number 4 above are the most influential factors for encouraging (or discouraging) property owners to replace larger and more impacting existing piers with new more environmentally friendly designs.**
10	Float width must not exceed 6 feet and the length cannot exceed 20 feet.	RGP-3 Standard	N/A	Always	Floats are typically used in salt water with tidal influence or fresh lakes with large swings in fluctuation. Very few floats are installed in Lake Washington due to its limited fluctuation in depth and moorage needs of most property owners. SMP's should consider allowing 8' wide floats for personal safety and to allow more grated surface to be installed. Float length could be based on the minimum necessary to provide adequate moorage. **NOTE: This dimensional standard is not a major factor for projects on Lake Washington and Lake Sammamish since most people choose fixed pile piers.**
11	Floats must contain at least a two foot strip of grating down the center.	RGP-3 Standard	N/A	Always	There are very few float projects proposed in Lake Washington. When they are, the RGP-3 Standard is met.
12	All grating must have at least 60% open area.	43% Open Area (Thruflow)	60% open area residential grade grating is not available. The maximum open area for affordable and foot friendly grating is 43%. The Corps has routinely approved the 43% open area grating understanding that 60% open area residential grating cannot be provided.	Never	**Reduce the open area requirement to 40%.** The Corps RGP-3 is flexible and has approved every residential project which has proposed 43% open area grating. If the 60% (or more than 43%) open area requirement is written into any local SMP it will trigger a Variance. DOE did not research the problems with the RGP-3 prior to recommending several of the dimensional standards to local governments. Prior to the 60% open area standard projects were required to attain 60% ambient light beneath structures which included light from the sides of the pier so this was attainable. **NOTE: It doesn't make sense to adopt an unattainable standard that will constantly trigger a Variance or require use of an alternative process.**

13	Piling: The first in-water set of piles shall be steel, 4-inch and at least 18-feet from OHW.	Piling size is determined by site conditions and the first set is typically 6" or 8", with an occasional requirement for 10" diameter. Distance from OHW is typically 18' to 30' depending on the project. 6", 8" and 10" diameter first set piles are routinely approved by the Army Corps.	This dimensional standard is never met because 4" diameter piles do not provide adequate vertical and lateral loads. If the 4" pile size is adopted it will pose a personal and navigational safety hazard. There is no requirement from DOE that local governments adopt pile size or distance from the OHWM.	4-inch Diameter- Never 18 feet from OHW- Most Times	**NOTE: Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.** Pile size is determined by experienced contractors using a number of factors including pier size, wind and wave action, water depth, and substrate. Pier design always includes the minimum pile size required to meet load and moorage requirements. This element is also determined by Residential Building Code requirements. **NOTE: Regulating pile size will likely trigger a Variance or require a use of an alternative process for all projects.**
14	Beyond the first set of piles, piles for a new pier must be spaced no closer than 20 feet apart and no greater than 12-inches in diameter.	16' to 20' Average Span Maximum12 inch diameter	Pile span is driven by project specific load requirements based on personal and navigational safety. Span is determined by pier size, moorage requirements, water depth, wind and wave action, and is always the maximum allowable. N/A	Most Times Always	**NOTE: Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.** Pile span and size is determined by experienced contractors using a number of factors including pier size, wind and wave action, water depth, and substrate. Pier design always includes the maximum span and minimum pile size required to meet load and moorage requirements. This element is also determined by Residential Building Code requirements. **NOTE: Regulating pile span will likely trigger a Variance or require use of an alternative process for all projects.**
15	Piling beyond the first set: Replacement or proposed new piling can be steel, concrete, plastic or untreated or treated wood.	RGP-3 Standard	N/A	Always	New and replacement piles are typically steel or untreated wood with a few companies using concrete. **NOTE: This is strictly regulated by both WDFW and the Army Corps so while it is not problematic including it in a local SMP is unnecessary.**
16	A maximum of 2 (two) moorage piling (or 4 for joint-use) may be installed to accommodate the moorage of boats exceeding the length of the floats.	RGP-3 Standard	N/A	Most Times	Most projects include 2 mooring piles but based on the size and weight of watercraft being moored there may be an occasional need to install more than 2 mooring piles to provide safe moorage. The flexibility of the RGP-3 allows federal regulators to consider and approve more than 2 mooring piles. **NOTE: Mooring piles eliminate the need for additional pier sections commonly used in the past to form a boat slip.** **NOTE: If local SMP's are fixed on regulating the number of mooring piles it should be based on a project specific basis by watercraft length and weight.** **NOTE: There does not appear to be any specific requirement by DOE for local governments to regulate the number of mooring piles.** **NOTE: Mooring piles for residential projects are typically 10" or 12" diameter.**

17	Moorage piling shall be at least 30-feet waterward of OHW and no further than 12 feet from the end of the pier.	RGP-3 Standard for Distance from OHW Unless Local Code on Limited Pier Size or Length Does Not Allow Project Specific for Distance from "End" of Pier Project Specific for Distance from "Edge" (Side) of Pier	Maximum Pier Length or Size Can Limit How Far a Moring Pile is Located From OHW and to Provide Adequate and Safe Moorage Distance from "End" of Pier- 12' Is not Usually Adequate Distance to Allow for the Moorage of Watercraft Distance from "Edge" of Pier is Usually 18' to 26' to Allow Adequate Moorage for Larger Watercraft	Most Times Most Times Because Mooring Piles are Rarely Installed Waterward of the End of A Pier Never	**NOTE: There does not appear to be any specific requirement by DOE for local governments to regulate the distance of mooring piles from the end of the pier. Including this standard in the local SMP represents redundancy and does not allow flexibility for project specific exceptions. Mooring piles, regardless of how far they are from the end of pier represent the same amount of structure. This standard should be under the regulatory control of federal agencies to address during their ESA Consultation for impacts on listed species and critical habitat.** This standard is typically met but on rare occasions mooring piles may need to be within 30 feet of the OHW to meet other local regulations. The flexibility of the RGP-3 allows the Corps to evaluate this on a project specific basis. This is closely scrutinized through the Corps process. There is also confusion on what is meant by "no more than 12 feet from the end of the pier". If the "end" of the pier means the most waterward edge then this standard is met almost all of the time. Most mooring piles are not installed waterward of the end of the pier so this may mean from the "edge" (side) of the main pier walkway. If this is the case, then this standard is almost never met because mooring piles are designed to provide safe moorage for larger watercraft often 40' to 80' long and 12' to 20' beam widths. There is typically 2'-3' on each side between the watercraft and the pier and mooring piles to allow for movement from wave and wake action so mooring piles are typically 18' to 26' from the "edge" of the pier. Environmental Benefit: Mooring piles provide a 4 corner tie up and eliminate the need for additional pier structure and support piles used to form a slip to provide the same moorage capabilities. **NOTE: Including this in the SMP will trigger a Variance for many projects.**
18	If an impact hammer pile driver for steel piling is utilized, a sound attenuation device or system must be implement ted during pile driving. Steel piling cannot exceed a 12-inch diameter.	RGP-3 Standard	N/A	Always	**NOTE: Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP. Including this standard in the local SMP represents redundancy and does not allow flexibility for project specific exceptions. Mooring piles, regardless of how far they are from the end of pier represent the same amount of structure. This standard should be under the regulatory control of federal agencies to address during their ESA Consultation for impacts on listed species and critical habitat.**
18a	1. Piling with diameter of 10 inches or less-one Corps approved sound attenuation device is required.	RGP-3 Standard	N/A	Always	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**

18b	2. For piling with a diameter greater than 10 inches, up to 12 inches, two Corps approved sound attenuation devices are required.	RGP-3 Standard	N/A	Always	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
19	Treated Wood: No creosote, pentachlorophenol, CCA, or comparably toxic compounds not approved for marine use, shall be used for any portion of the over water structure. ACZA treated wood must meet Post-Treatment Procedures.	RGP-3 Standard	N/A	Always	All wood treatments meet requirements from state and federal regulatory agencies. Waterfront exclusively uses Chemonite (ACZA) treated wood but there are a couple other treatments approved for fresh water applications. **While local governments can include this in their SMP for projects that may be exempt from other agency review, this is adequately regulated by state and federal agencies.**
20	Invasive aquatic weeds are present and applicant will remove by non-chemical means.	This standard has never been included as a part of any RGP-3 application we have done.	N/A	N/A	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.** **SMP's should not regulate or mandate the removal of invasive aquatic weeds.** Very few projects include the removal of invasive weeds. If this is part of a project, methods approved by WDFW are used.
21	Impact Reduction Measures: Applicant will plant emergent vegetation.	This standard is rarely included in projects on Lake Washington but is sometimes offered in Lake Sammamish.	N/A	N/A	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.** **SMP's should not regulate or mandate emergent plantings for Lake Washington or Lake Sammamish.** Emergent plantings are rarely preferred or appropriate for projects in Lake Washington or Lake Sammamish. Several locations on Lake Sammamish may suitable but due to annual flooding and strong wind and waves they rarely survive.
22	Impact Reduction Measures: Applicant will plant a ten-foot wide strip of vegetation along the entire of the shoreline (including shorelines of any joint-use applicants). A six-foot wide path through the vegetation is allowed for access to the pier.	Very few projects include a ten foot wide planting strip along the entire shoreline. The Corps accepts a good faith effort on the part of applicants to install a suitable native planting plan. Most planting plans have what is called a "picture frame" design with a deeper and taller planting buffer at each end and less in the center of the property. Plantings within a few feet of the shoreline provide a greater benefit for fish and the aquatic environment.	Including this in a SMP will prove too rigid and not allow any flexibility based on project or lot size. Wider lots will be unfairly required to plant more than smaller lots. Planting plans with a larger buffer at each end and less in the center of the property is preferred. This will place everyone in a "box" and does not respect individual taste. The RGP-3 is flexible and the SMP is not.	Sometimes	**SMP's should not regulate or mandate plantings too rigidly.** **Local governments should accept the flexible planting plans approved by WDFW and the Army Corps.** **Flexibility will make property owners feel they have a part in the project design and will be more open to proposing and keeping the planting plan after the 5 year monitoring period.**
22a	Impact Reduction Plantings: The authorized species, number of plants, and correct spacing of plants will be utilized.	RGP-3 Standards	N/A	N/A	**While local governments can include this in their SMP, this is adequately regulated by state and federal agencies.**

22b	Impact Reduction Planting Performance Standards- The required performance standards will be met for the 5-year monitoring period: a. 100% survival of all trees and shrubs for the first two years. b. 100% of trees and 80% of shrubs must survive years 3-5.	RGP-3 Standards	N/A	N/A	**While local governments can include this in their SMP, this is adequately regulated by state and federal agencies.** **NOTE: Some local governments are considering requiring a security bond in conjunction with plantings. This is absolutely unnecessary and all that should be required are the same initial and annual monitoring reports required by the Army Corps and/or WDFW.**
22c	Impact Reduction Reports: A status report on the project and mitigation, including as-built drawings, must be submitted to the Corps within 12 months from the date the Corps issues and RGP to the permittee. Planting monitoring reports will be due annually for 5 years from the date.	RGP-3 Standards	N/A	N/A	**While local governments can include this in their SMP, this is adequately regulated by state and federal agencies.**
23	Fish Work Windows: he required RGP fish work window will be met. Note: The RGP fish work window may be different than the HPA work window. For the work to e authorized by this RGP, the RGP fish work window must be met.	RGP-3 or WDFW Standards With An Option To Request Work Outside the Fish Work Window on a Case-by-Case Basis	Local governments are not qualified to apply this standard. This is the responsibility of biologists at WDFW and the Army Corps. Local permits condition applicants to apply and meet all other state and federal permits which include work windows.	*Always (*Including projects where a special or extended work window is requested and approved to complete work.)	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
24	Bald Eagle Work Window: Required bald eagle work windows will be met, if applicable to the project location. General work prohibition times: January 1 through August 15 (nesting areas) November 1 through March 31 (wintering areas)	N/A The Bald Eagle has been delisted from the ESA so this does not apply.	N/A	N/A	**The Bald Eagle has been delisted from the ESA so this does not apply and should not be included in the SMP.**
25	Work in the Dry: Work that disturbs the substrate, bank, or shore shall occur in the dry whenever practicable.	There are no new pier projects that can meet this requirement so the basis for this standard is unclear. All projects are approved because the standard does say "whenever practicable".	New piers involving the installation of piling cannot be done in the dry. All projects are approved because the standard does say "whenever practicable".	Never	**There does not appear to be any specific requirement by DOE for local governments to include this RGP-3 standard. This is adequately regulated by state and federal agencies and should not be included in the SMP.**
26	Operation of Equipment: Equipment shall be operated from the top of the bank, dry gravel bar, temporary work platform, barge, or similar out-of-water location.	RGP-3 Standards	N/A	Always	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
27	Equipment shall be operated in a manner that minimizes suspended particulates from entering the water column.	RGP-3 Standards	N/A	Always	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
28	All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that the equipment has not fluid leaks. Any equipment that develops a leak shall be removed from the site immediately and not used again until it has been adequately repaired.	RGP-3 Standards	N/A	Always	**Do the SMP Update Guidelines specifically require local governments to include this RGP-3 standard? This is effectively regulated by state and federal agencies and should not be included in the SMP.**
29	All General Conditions will be met.	RGP-3 Standards	N/A	Always	**There does not appear to be any specific requirement by DOE for local governments to include this RGP-3 standard. This is adequately regulated by state and federal agencies and should not be included in the SMP.**

30	A copy of this permit, permit drawings, mitigation planting plan, and final authorization letter shall be recorded with the Registrar of Deeds, within 60 days after final Corps authorization, to ensure that subsequent property owners are aware of the construction, use, and mitigation requirements. Proof of this must be provided to the Corps within 65 days after the date of the Corps' RGP verification letter to the permittee. If the pier is joint use, all co-applicants must voluntarily agree to build no additional overwater structures on their property, except for the maintenance or modification of the proposed joint use overwater structure. This voluntary agreement and the documentation described above must be recorded on the deeds of all involved properties. (General Condition 3)	RGP-3 Standards (Property Owner Responsibility)	N/A	Unknown (Property Owner Responsibility)	**There does not appear to be any specific requirement by DOE for local governments to include this RGP-3 standard. This is adequately regulated by state and federal agencies and should not be included in the SMP.**